

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Walter Ricky Bellamy,)	Civil Action No.: 8:10-cv-01103-TMC-JDA
)	
Plaintiff,)	
)	
vs.)	<u>REPORT AND RECOMMENDATION</u>
)	<u>OF MAGISTRATE JUDGE</u>
Willie Eagleton,)	
)	
Defendant.)	

Plaintiff brought this action seeking relief pursuant to Title 42, United States Code, Section 1983. On November 4, 2011, Defendant filed a motion for summary judgment.¹ [Doc. 65.] On November 4, 2011, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), Plaintiff was advised of the summary judgment/dismissal procedure and the possible consequences if he failed to respond adequately. [Doc. 66.] Despite this explanation, Plaintiff did not respond to the motion.

As Plaintiff is proceeding pro se, the Court filed a second Order on February 28, 2012, giving Plaintiff through March 19, 2012 to file his response to the motion for summary judgment. [Doc. 70.] Plaintiff was specifically advised that if he failed to respond, this action would be dismissed for failure to prosecute. Plaintiff did not respond.

Based on the foregoing, it appears Plaintiff no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed *with prejudice* for lack of prosecution and for failure to comply with this Court's orders, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and the factors outlined in *Chandler Leasing Corp. v.*

¹Previously, both parties filed motions for summary judgment. [Docs. 30, 40.] On September 29, 2011, the Honorable Henry F. Floyd denied Plaintiff's motion for summary judgment and granted in part and denied in part Defendant's motion for summary judgment with leave to refile. [Doc. 57.] Thereafter, Defendant filed a new motion for summary judgment on November 4, 2011. [Doc. 65.]

Lopez, 669 F.2d 919, 920 (4th Cir.1982). See *Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989).

IT IS SO RECOMMENDED.

s/Jacquelyn D. Austin
United States Magistrate Judge

March 20, 2012
Greenville, South Carolina